

**Michigan
Bureau of
Workers' Disability Compensation**

**REPORT OF
THE TASK FORCE ON
VOCATIONAL
REHABILITATION
IN WORKERS'
COMPENSATION**

December 2000

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EXECUTIVE SUMMARY

The Task Force on Vocational Rehabilitation in Workers' Compensation has been convened to address key issues related to the rehabilitation of injured workers and make specific recommendations on what can be done to improve the functioning of vocational rehabilitation in the current workers' compensation system.

Section 418.319, was added to the Michigan Workers=Disability Compensation Act in 1965, making vocational rehabilitation a benefit to injured employees. Since that time, the Bureau has remained strongly committed to vocational rehabilitation. However, creating an environment conducive to the delivery of high quality vocational rehabilitation services in the workers= compensation system is not a simple task. In recent years there have been increasing concerns about the inappropriate utilization of vocational rehabilitation and attempts to abuse the vocational rehabilitation process for various reasons. Such abuses include delayed referrals, under-qualified providers, inadequate evaluations, unrealistic demands for immediate job placement with high pressure tactics and little or no concern about wage recovery, and injured workers who do not cooperate with vocational rehabilitation. These practices result in an increase in litigation, much higher costs, and lingering animosity on both sides.

This Task Force report recognizes the accepted principle that rehabilitation is an inherent part of the workers= compensation system, while acknowledging the difficulty in translating that principle into cost-effective programs that serve the needs of both injured employees and employers.

This report sets forth a definition of vocational rehabilitation, to eliminate confusion over this important area of professional practice. It also recommends enhanced qualifications for providers, requiring Bureau approval at the individual provider level to provide vocational rehabilitation services, and upgraded service delivery standards to improve the quality and appropriate use of vocational rehabilitation. The recommendations call for the Bureau to strengthen enforcement of vocational rehabilitation practice standards for all the parties, to encourage early intervention, and to develop and emphasize continuing education for all participants with assistance from appropriate educational partners.

Consistent with the other recommendations, there are additional recommendations for the establishment of an ongoing vocational rehabilitation advisory committee, establishment of a more adequate data tracking system for vocational rehabilitation, development of practice standards for claims representatives, increased staffing in the Vocational Rehabilitation Division, and establishment of policy for a one-time change of vocational rehabilitation provider.

There is also a recommendation that the Bureau address the increasing provision of medical case management and determine its application in the provision of medical and vocational rehabilitation services to injured workers, and investigate the feasibility of amending the

statute to provide for allocation of plaintiff attorney fees in the case of a vocational rehabilitation dispute.

The recommendations set forth herein are submitted with the intention they will be used to improve the functioning of vocational rehabilitation in the current workers= compensation system.

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Report of the Task Force on Vocational Rehabilitation In Workers' Compensation

Task Force

MEMBERS

In the spring of 2000, Craig Petersen, Director of the Bureau of Workers' Disability Compensation (hereinafter the "Bureau"), established a Task Force to review and evaluate the various issues concerning vocational rehabilitation of Michigan's injured workers. This Task Force became known as the Task Force on Vocational Rehabilitation in Workers' Compensation (hereinafter the "Task Force"), and its appointed members are Douglas Langham, Chairperson, Pat Boeheim, David Campbell, Richard Cypher, Doreen Dill, Rochelle Habeck, Janine Holloman, Lisa Klaeren, Grace Menzel, Dennis Morrill, Stephen Oldstrom, Barry Reinink, and Richard Warsh. Kim Ernzer, from the Bureau of Workers' Disability Compensation, provided invaluable assistance to the Task Force.

RESPONSIBILITY

The Task Force was requested to review and evaluate the various issues concerning vocational rehabilitation of Michigan's injured workers and make recommendations on what can be done to improve the functioning of vocational rehabilitation in the current workers' compensation system.

In accordance with the direction provided, the Task Force undertook a thorough review and evaluation of the current major issues relating to vocational rehabilitation in the workers' compensation system. Issues considered by the Task Force included:

- ! Definition of rehabilitation
- ! Early intervention
- ! Bureau approval standards
- ! Service delivery guidelines
- ! Dispute resolution process
- ! Data collection for measuring outcomes
- ! Educational activities

The Task Force met six times between May 19, 2000 and December 8, 2000.

TASK FORCE'S ANALYSIS

The Task Force's recommendations are based upon review of professional literature, summaries of best practices, developments in professional regulation of practice, policy developments in other workers=compensation jurisdictions, and the deliberations of the Task Force members.

Statute

The statute authorizing vocational rehabilitation was passed by the Legislature with an effective date of September 1, 1965. See MCLA 418.319 (1) and (2)

418.319 Medical or vocational rehabilitation services.

Sec. 319. (1) An employee who has suffered an injury covered by this act shall be entitled to prompt medical rehabilitation services. When as a result of the injury he or she is unable to perform work for which he or she has previous training or experience, the employee shall be entitled to such vocational rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore him or her to useful employment. If such services are not voluntarily offered and accepted, the director on his or her own motion or upon application of the employee, carrier, or employer, after affording the parties an opportunity to be heard, may refer the employee to a bureau-approved facility for evaluation of the need for, and kind of service, treatment, or training necessary and appropriate to render the employee fit for a remunerative occupation. Upon receipt of such report, the director may order that the training, services, or treatment recommended in the report be provided at the expense of the employer. The director may order that any employee participating in vocational rehabilitation shall receive additional payments for transportation or any extra and necessary expenses during the period and arising out of his or her program of vocational rehabilitation. Vocational rehabilitation training, treatment, or service shall not extend for a period of more than 52 weeks except in cases when, by special order of the director after review, the period may be extended for an additional 52 weeks or portion thereof. If there is an unjustifiable refusal to accept rehabilitation pursuant to a decision of the director, the director shall order a loss or reduction of compensation in an amount determined by the director for each week of the period of refusal, except for specific compensation payable under section 361(1) and (2).

(2) If a dispute arises between the parties concerning application of any of the provisions of subsection (1), any of the parties may apply for a hearing before a hearing referee or worker's compensation magistrate, as applicable.

History: 1969, Act 317, Eff. Dec. 31, 1969;--Am. 1985, Act 103, Imd. Eff. July 30, 1985.

Administration

The Vocational Rehabilitation Division is responsible for ensuring that employers provide rehabilitation services according to the provisions of the law and that injured employees accept such services. The Division provides information and assistance to all parties, approves rehabilitation facilities, monitors ongoing rehabilitation programs, holds second-level Director's hearings on alleged rehabilitation non-cooperation, and conducts periodic training programs. The Division serves the entire Michigan workforce and all employers subject to the Act in Michigan.

The Vocational Rehabilitation Division was established in 1966 and was initially staffed by one Rehabilitation Specialist who encouraged referrals for vocational rehabilitation, provided information and assistance, and monitored active rehabilitation programs. In 1977, the Division was expanded to eventually include an Administrator, three Rehabilitation Consultants, and three clerical support staff members. In 1991, as a result of a reduction in force, five positions were eliminated in the Division, leaving the administrator and clerical support at the present time.

In Fiscal Year 2000, which ended September 30, 2000, eight new rehabilitation facilities were granted bureau approval; 11 training programs were conducted; 11,719 requests were mailed for a Form 110 - Carrier Report on Rehabilitation; 8,310 Right to Vocational Rehabilitation letters were mailed to injured workers; a total of 5,740 case openings and 7,208 case closures were reported by approved facilities; and a total of 3,479 injured workers were successfully assisted back to work with rehabilitation. During the year the Division responded to a large number of requests for information and assistance from injured workers, employers, rehabilitation providers, attorneys, and other parties. Currently, nearly 5,000 injured workers are receiving rehabilitation services from Bureau approved facilities.

Task Force Recommendations

1. Define Vocational Rehabilitation.

Rationale:

The Task Force noted that we do not currently have a definition of vocational rehabilitation that is recognizable as being in accordance with authoritative sources in the field, which can be accepted by all participants, and provide a shared and sound basis for appropriate direction of the program. Many participants have different views of vocational rehabilitation and seem unaware that this is a well-formulated field and discipline of professional endeavor and not a general lay term to be defined by the user.

Injured workers should have a right to expect professional quality vocational rehabilitation services and employers should have the right to expect injured workers to cooperate with vocational rehabilitation. Service components should be presented and coordinated as part of the cohesive process that characterizes appropriate vocational rehabilitation, in which the emphasis on each component varies with the needs of the client and work situation. In order to address this important area of concern, and to provide a uniform basis for professional service delivery, the Task Force supports the following definition of vocational rehabilitation.

Recommendation: *The definition of vocational rehabilitation is the coordinated and systematic process of professional services to enable and sustain the employment of an injured worker. The basic components of vocational rehabilitation services are vocational assessment, counseling, goal-setting, service planning, case management, service delivery, job placement and follow-up.*

2. Enhance qualifications required for participation as a provider and require Bureau approval to provide vocational rehabilitation services at the individual level.

Rationale:

Current standards for facility approval are not sufficient to assure that vocational rehabilitation services are provided by individually qualified professionals. Further, many providers being referred to as rehabilitation counselors in the Bureau program do not meet the professional qualifications to use this designation. The qualifications to be met by providers of vocational rehabilitation services need to be more thoroughly

specified in terms of professional standards and the literature that supports them. Professional qualifications should be consistent with national standards for the profession of rehabilitation counselors and the provision of vocational rehabilitation services.

Qualified rehabilitation professionals who hold national certification are specifically bound by their credentialing bodies to a scope of practice and ethical code of conduct that prohibit provider abuses such as those previously noted. The Bureau should be a conduit for promoting professional, ethical practice by limiting approval for independent practice only to fully qualified professionals who possess professional credentials, by actively reporting violations to their credentialing bodies, and by suspending offenders from participation.

Recommendation: A standard should be established requiring that providers of vocational rehabilitation services to injured workers meet the following qualifications: have a Master's Degree in Rehabilitation Counseling or related field of counseling; and, be a Licensed Professional Counselor (LPC); or, be a Certified Rehabilitation Counselor (CRC). For the five year period following the adoption of this recommendation, Certified Disability Management Specialists (CDMS) may qualify for Bureau approval upon submission of a letter of intent to secure certification as a Certified Rehabilitation Counselor (CRC) or licensure as a Professional Counselor (LPC) by the end of the five year period.

3. Upgrade the standards of practice for service delivery.

Rationale:

The informal rehabilitation delivery policies established by the Bureau have provided a solid foundation, but require further development to improve the program. While many rehabilitation programs are positive, both defendant and plaintiff communities have voiced concerns about vocational rehabilitation service delivery practices that violate professional standards of practice, as well as the failure to provide appropriate services when needed. Of particular concern are reports that rehabilitation providers are sometimes pressured to make inappropriate decisions based on the request of the referral source. This poses serious ethical and financial dilemmas for the providers and compromises services for injured workers. In the present environment, providers are not accorded professional respect or recognized as having professional expertise to make judgments about service needs based on evaluation findings.

As noted in the previous recommendation, qualified providers are specifically bound by their credentialing bodies to a scope of practice and ethical code of conduct that prohibit provider abuses. The requirement of professional qualifications needs to be coordinated in conjunction with the establishment of upgraded service delivery standards as stipulated in the scope of practice, service delivery guidelines, and ethical standards of the profession. Implemented together, these two recommendations can dramatically improve the accountability of providers of services, the quality of services provided, and protect the integrity of services from abuses by users and providers.

Recommendation:*The Task Force recommends that the Bureau develop standards for practice of vocational rehabilitation that are consistent with the recognized and current standards of the profession, the guidelines of the Commission on Rehabilitation Counselor Certification, and the guidelines of the Michigan Counselor Licensing Division.*

4. Strengthen enforcement of vocational rehabilitation rules and practice standards.

Rationale:

The Task Force noted that there is a need to enforce the rules and practice standards, and then determine what can be done to strengthen the rules and standards that we currently have or that might be developed. It was suggested that before you can enforce policy, there is a need to clarify procedures. There is a need to find a way to enforce these policies and procedures. The Bureau should be encouraged to develop definite policies and procedures to put teeth into the vocational rehabilitation process.

Recommendation:*Draft and develop vocational rehabilitation administrative rules to assist in the development of procedure and policies to assist the Bureau to more efficiently manage and monitor claims.*

5. Establish an adequate data system for tracking and evaluating services and outcomes of vocational rehabilitation.

Rationale:

While Bureau data currently exist on the utilization of vocational rehabilitation, referrals initiated and outcomes achieved, these data are voluntarily reported and are not linked to the claim population as a whole. It is not possible in the current system to perform

vocational rehabilitation program evaluation analyses from an existing database of all claimants. Data needs required for adequate vocational rehabilitation program functioning and program evaluation could be added to and retrieved from the current system. The data retrieval system would serve as a program evaluation tool and be used to provide oversight of the vocational rehabilitation program.

The best data systems provide extensive examples of the design features and data elements that can be considered for meeting the needs of this system. Some of the components recommended for consideration by members of the Task Force include the following:

- I. Functions to be accomplished by the data system:
 - A. Measure outcome indicators for accountability
 - B. Analyze data to identify problem areas
 - C. Assist in determining if programs/processes are successful
 - D. Develop historical trend information
 - E. Track rehabilitation providers' performance
 - F. Monitor performance of insurance companies, self-insured employers, and other third party administrators with respect to compliance, timeliness, etc.
- II. Data elements to be considered:
 - A. Purpose of referral (medical/vocational rehabilitation)
 - B. Demographic information (name, referral date, injury type, etc.)
 - C. Outcome information (return to work to same/new employer, return to work to occupation and wage, length of services, duration of time loss, etc.)
 - D. Provider information (name/addresses of insurance provider/referral source, attorneys, vocational rehabilitation provider)
 - E. Services provided
- III. Innovations to consider:
 - A. Revise Form 110 to align with data system elements for ease of data entry
 - B. Standardize referral sheets
 - C. Specify elements required to be included in reports for data system needs
 - D. Record participation in continuing education efforts of qualified providers (link with education requirements)
 - E. Link to Recommendation F (vocational rehabilitation timing/early intervention) by tracking timing of vocational rehabilitation services
 - F. Track litigation/mediation records (based on client demographics, providers involved, etc.)

- G. Evaluate subjective outcomes, such as customer satisfaction with services, providers, outcomes, etc.

Recommendation: *Develop an adequate data system with evaluation criteria for monitoring and evaluating the provision and outcomes of vocational rehabilitation services and for evaluating the vocational rehabilitation program.*

6. Establish an ongoing vocational rehabilitation advisory committee.

Rationale:

There was discussion and agreement that a Vocational Rehabilitation Advisory Committee should be established, to report to the program Administrator and Bureau Director regarding its assessment and evaluation of the current program and to make any recommendations necessary. The need for such a representative committee was evident in many of the issues discussed, which are expected to require continuing review and recommendations over time. Many of the recommendations in this report would be more easily implemented with the advice of a broadly representative committee which is knowledgeable about current developments and issues in the field and concerned for the effective functioning of the bureau's program.

Recommendation: *The Task Force recommends that the Bureau establish a Vocational Rehabilitation Advisory Committee. The committee would meet at least annually and periodically as needed to review the policies and procedures governing vocational rehabilitation in the Michigan workers' compensation program. This Advisory Committee would report to the Vocational Rehabilitation Administrator and the Director of the Bureau regarding its assessment and evaluation of the current system, important developments in the field that affect vocational rehabilitation, and recommendations necessary to improve its functioning. The composition of the committee should consist of a representative group of all participants in the vocational rehabilitation process.*

7. Develop a continuing education program with appropriate educational partners for all participants in the vocational rehabilitation process.

Rationale:

Although only qualified professionals who meet the recognized standards of their discipline should render vocational rehabilitation services in the workers= compensation program, there is a great deal of specific knowledge and skill development that is needed to function in this complex arena beyond general professional preparation. In addition, because many parties are involved in the process of returning or restoring the injured worker to employment, there is a need for specific training that assists all parties in understanding the various services and interventions and how these can be coordinated in an effective and timely program of services to accomplish the goals of the program. Further, continuing changes in the labor market, developments in medical treatment and rehabilitation intervention, and research findings about successful practices in workers= compensation should be disseminated regularly to the multidisciplinary community of providers and parties who participate in the program in order to assure high quality of service by enhancing adoption of best practice.

Many of the participants have annual requirements for continuing education in order to maintain their licensure or certification status. By linking these efforts with their professional associations so that continuing education units (CEU's) can be provided, this educational activity will serve the provider participants' needs for credential maintenance while also attending to critical content highly relevant to their professional development and the improvement of the Bureau's program.

Recommendation: *In order to assure that injured workers and employers are served effectively, it is recommended that the Bureau provide leadership in establishing and overseeing a regular program of continuing education for the participants involved in the vocational rehabilitation process. Such training should be overseen by the Bureau with input from a standing advisory committee, as a non-profit activity to be carried out in partnership with public institutions of higher education and professional associations serving the continuing education needs of the participants. The training should facilitate cross-disciplinary understanding and assist all participants in improving services that assist injured workers and employers in accomplishing effective employment outcomes.*

8. Increase staffing in the Vocational Rehabilitation Division.

Rationale:

Five positions in the Vocational Rehabilitation Division were eliminated in 1991 and those positions have not been replaced. Since that time the Division staffing has included an administrator and one clerical support person. The Division receives numerous telephone calls from injured workers in response to letters notifying them of their right to vocational rehabilitation. There are currently over 120 Bureau approved vocational rehabilitation facilities in Michigan, serving 5,000 injured workers. The Division also receives a large number of requests for information and assistance from injured workers, employers, rehabilitation providers, attorneys, and other parties. The Division also investigates complaints regarding rehabilitation service delivery. In addition, since 1998, the Division administrator has also conducted second-level director's hearings to determine whether or not injured worker's benefits should be reduced or suspended for alleged non-cooperation with vocational rehabilitation, following an order to cooperate. Given these administrative workload factors, and in consideration of the recommendations offered here to improve the functioning of the vocational rehabilitation program, we believe that additional qualified staffing in the Vocational Rehabilitation Division is needed.

Recommendation: *We recommend the Bureau provide an adequate level of staffing, with appropriate professional qualifications, in the Vocational Rehabilitation Division to carry out the full scope of the vocational rehabilitation program, as recommended herein.*

9. Improve the timing of vocational rehabilitation referrals and provide early intervention when appropriate.

Rationale:

Research has demonstrated that early intervention is the key to successful vocational rehabilitation and return to work. The Workers Compensation Research Institute reports that the likelihood a worker will face long-term unemployment doubles once that employee has remained off the job for more than six months. A Vocational Rehabilitation Cost-Effectiveness Study in Michigan conducted by the vocational rehabilitation division found that about 60% of the workers referred to vocational rehabilitation in the first 90 days of disability returned to work, whereas only about 29% of the workers referred after two years returned to work.

The Task Force agreed that the Bureau should take a leadership role in effecting early intervention. There is a need for more direct employer involvement with injured employees to ensure that appropriate rehabilitation and return to work efforts are initiated in the most timely manner possible. Early intervention, in a constructive fashion, can resolve many of the problems of extended disability and employee dislocation from the work force. Some jurisdictions have developed standards with practices that move closer to including early intervention in the service model. These have relevance for improving Michigan's system and should be considered. Early intervention is a fundamentally different approach to the management of a work injury than waiting to provide rehabilitation services until after a worker is clearly unable to return to their former work.

Prior to the reduction of force in 1991, the Division systematically screened extended-pay case files to identify injured workers with possible unmet rehabilitation needs. Due to reduced staffing and the Bureau's conversion to an electronic database, the Division was no longer able to continue the screening activities. Subsequently, the volume of referrals for vocational rehabilitation dropped and there were increasing delays in such referrals. To address this growing trend the Bureau began mailing out letters notifying injured workers of their right to vocational rehabilitation at 150 days into the payment of benefits, (except in those cases where the Bureau is notified of a vocational rehabilitation case opening). Over 8,000 of these letters were mailed out last year to make injured workers aware of their rights to vocational rehabilitation and to stimulate return to work efforts. Given these trends, the Task Force felt that this systematic intervention should be expanded for the potential impact this proactive measure may have.

In summary, two different aspects of early intervention were considered and endorsed as important by the Task Force, which required formulation of two recommendations. The first addresses the timeliness of referrals for vocational rehabilitation where the Bureau is the initiator of vocational rehabilitation activity. The second addresses the broad concept of early intervention linked to the time of injury and the setting of the work place, where early intervention is initiated to promote recovery and accommodation for safe and timely return to work.

Note: Section 319 says, *When as a result of the injury he or she is unable to perform work for which he has previous training and experience, the employee shall be entitled to such vocational rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore him or her to useful employment.* Cast in this light, vocational rehabilitation services as described in Michigan are perceived to have little in common with early intervention, as they are only

applied after the vocational outcome is evident. Unfortunately, the simultaneous phases of medical care and rehabilitation intervention needed to accomplish restoration and accommodation of return to work are not likely to occur when the medical and vocational rehabilitation processes occur in this linear and sequential way.

Recommendation: *The Task Force recommends that the Bureau enhance its early notification process to stimulate early identification and referral for vocational rehabilitation when the length of time loss indicates need, as follows: 1) send a Right to Vocational Rehabilitation letter to employees at 90 days, 2) send a notification to the carrier at 120 days that a referral for vocational rehabilitation will be made at 180 days unless a plan for return to work or referral for vocational rehabilitation services has been reported to the Bureau, and, 3) require a vocational rehabilitation evaluation at 180 days, absent medical or other reasonable circumstances to the contrary.*

Recommendation: *The Task Force recommends that the Bureau foster voluntary actions for early interventions that facilitate successful recovery and accommodations for return to work. All participants should be encouraged to incorporate this concept within their policies and practices, and in all aspects of claim handling, health care services and vocational rehabilitation.*

10. Develop practice standards for employer, insurance company and third party administrator claims personnel for administering workers' disability compensation benefits.

Rationale:

The Task Force recognizes the importance of the positions of employer, insurance company and third party administrator claims personnel in the workers' disability compensation system. They are the front line in claims administration, serving as the referral sources or gatekeepers who initiate referrals and pay for vocational rehabilitation services.

The Task Force also recognizes that some of the concerns regarding vocational rehabilitation service delivery originate in the claims administration process. The Bureau issued a memo on this subject on May 4, 1999 that is posted on the Bureau

web site and is still relevant. The other recommendations of this committee report can be thwarted by inadequate adjuster service delivery. The availability of better educational opportunities alone cannot fix this problem. Adjusters are currently not adequately encouraged by the Bureau to better professionalism.

The Michigan Workers= Disability Compensation system is not directly state administered. The payers of those benefits, employers and insurance companies, and their representatives, administer vocational rehabilitation benefits. There is an administrative hearing and appeal process for disputes. Disputes center on the merits of the claim and not on the claims process itself. Benefits are voluntarily paid and can be voluntarily disputed, except vocational rehabilitation disputes which need Bureau approval prior to stopping payment of benefits.

There are no requirements that claims personnel be licensed in Michigan or participate in continuing education. Accordingly, there is no mechanism to revoke a license for unethical conduct. The claims administration environment does not have a strong fair claims handling requirement. The State can schedule a Rule V Hearing for non-compliance with the Act.

In Michigan, workers= disability compensation claims personnel are not represented by a strong state or national organization advocating defined ethical standards, qualifications, certifications, quality delivery standards for injured workers, and continuing education requirements.

Therefore, we make this recommendation that the Bureau develop standards of practice for employer, insurance company and third party administrator claims personnel for administering workers= disability compensation benefits in the State of Michigan as one important step toward improving the provision of vocational rehabilitation services and achieving more favorable work outcomes for injured workers and their employers.

Recommendation: *We recommend that the Bureau develop standards of practice for employer, insurance company and third party administrator claims personnel for administering workers' disability compensation benefits in the State of Michigan. The practice standards should support claims personnel efforts to facilitate effective employment outcomes.*

11. Establish policy for one-time change of vocational rehabilitation provider.

Rationale:

Both carriers and injured workers often dispute the selection of a rehabilitation provider. Such disputes undermine the vocational rehabilitation process from the beginning and significantly reduce the potential for a successful rehabilitation outcome. If one party is unhappy with a selected rehabilitation provider, the Bureau should help neutralize the situation. When either the injured worker or the carrier chooses a counselor, either side should be permitted one opportunity to approach the

Bureau and request a one-time change in rehabilitation counselor. However, a time-line should be established to avoid the provision of extensive services before the requested change in provider, necessitating costly duplication of services. The Bureau would select the new approved provider randomly, from a next-up-on-the-list basis. Any requests to change after the initial request would require a formal hearing. The recommended change does not conflict with current practice. It simply permits either party to request a one-time change in provider.

Recommendation: *We recommend that the Bureau adopt the following rule for change of vocational rehabilitation provider:*

An injured worker or carrier may, on their own motion, obtain a change in the vocational rehabilitation provider if both of the following conditions exist:

- 1. This is the first request for change by either party.*
- 2. This motion is filed with the Bureau within 60 days of the first report generated by the original vocational rehabilitation counselor. The counselor is to provide a copy of the initial report to both injured worker and carrier.*

The Bureau will maintain and update a list of approved providers for use in this rule and Section 319(1). Separate lists will be developed and maintained for each jurisdiction to include all Bureau approved providers that work (practice) in that jurisdiction.

Upon motion by either party (in compliance with 1 & 2) the Bureau will automatically assign a new provider on a random rotating basis.

The Bureau will notify the parties of the newly assigned provider and make proper record of this change.

Any request to change counselors after the first request will be made by application and set for hearing as provided in Section 319(1)."

12. Address the increasing utilization of medical case management in the field, and determine its application in the provision of medical and vocational rehabilitation services to injured workers.

Rationale:

Medical case management services has emerged as a prevalent service within workers' compensation practice. A considerable amount of time was spent discussing medical case management within the context of vocational rehabilitation. Vocational rehabilitation is specifically addressed in Section 418.319, but this is not the case for medical case management. There is nothing in the Act that speaks directly to medical case management, and many of the vocational rehabilitation disputes handled by Bureau mediators involve concerns about the provision of medical case management. Members of the Task Force questioned whether medical case management is actually a medical issue, rather than a vocational rehabilitation issue. The Task Force did not reach agreement on this issue. In actual practice, the majority of rehabilitation case openings currently reported to the Division by approved facilities involve medical case management. A number of these cases are subsequently transferred to a vocational consultant for alternate job placement or retraining services.

Although the Task Force did not reach agreement in regard to this issue it is mindful that medical case management is an increasingly prevalent aspect of the coordination of care necessary to adequately manage chronic, complex or severe disabling conditions. This expanding area of workers' compensation practice should be appropriately tracked and upgraded. Medical case management should not replace what is defined as vocational rehabilitation, but its function should be clarified, and guidelines for practice and qualifications of providers should be considered. Future recommendations should bring medical case management services up to an appropriate level of professional practice, as has been recommended for vocational rehabilitation services.

Recommendation: *We recommend further study by the Bureau as to the role of medical case management within workers' compensation.*

13. Develop a mechanism to cover all aspects of a vocational rehabilitation hearing, including fees, expenditures, and appellate procedure.

Rationale:

The Task Force spent a significant amount of time discussing concerns about injured workers who are engaged in vocational rehabilitation litigation and do not have the funds to pay attorney fees because there is no accrued compensation that can be used to pay the fees. In cases where weekly benefits are being paid the insurer is expected to pay all reasonable and necessary vocational rehabilitation fees and expenses needed to complete the vocational rehabilitation plan.

However, there are instances where an injured worker is already receiving benefits and a dispute arises regarding vocational rehabilitation. In these situations, the injured worker must find an attorney to work without adequate payment. The same concern does not exist from the employer/carrier standpoint.

Therefore, it was argued that, if litigation results from vocational rehabilitation, the carrier or self-insured should pay the plaintiff attorney's reasonable and necessary fees and expenses at the same rate (hourly or flat fees) that the carrier or self-insurer pays its attorney. It was suggested that this will sharply reduce vocational rehabilitation litigation. The Task Force was divided, and there was no agreement on this issue. However, it noted that this issue has direct impact on vocational rehabilitation service delivery and warrants further study by the Bureau.

Recommendation: *The Task Force recommends that the Bureau investigate the feasibility of amendment to the statute, to include a provision similar to MCL 418.315, that provides for the allocation of costs and fees to the responsible party. Develop a mechanism to cover all aspects of a vocational rehabilitation hearing, including fees, expenditures, and appellate procedure.*